Canadian Human Rights Tribunal

2009–2010

Departmental Performance Report

The Honourable Robert Douglas Nicholson
Minister of Justice and Attorney General of Canada

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Chairperson's Message

As the new Tribunal Chairperson, it has been my privilege to sit at the helm of an organization that not only gives effect to fundamental Canadian ideals such as equal opportunity and accommodation of needs, but also enables complainants and respondents to access justice in a timely and cost-effective fashion, with procedural fairness for all.

Since my arrival in November 2009 my main preoccupation has been to facilitate access to justice for ordinary Canadians. With the support of the Tribunal's members, I have sought to make hearings and decisions speedier, fairer and more efficient.

The most notable change in Tribunal operations this year has been a more intensive approach to case management. Since late in 2009, parties to a complaint have been actively encouraged to identify and acknowledge all non-contentious issues and to accept one another's affidavits in lieu of expert testimony, saving both legal costs for the parties and hearing costs for Canadian taxpayers. Pre-hearing conferences wherein parties concede key facts and distil the handful of points that need to be determined by the Tribunal have shortened hearing times by more than 50 percent in some cases. Because this streamlining of hearings was introduced late in 2009 and because the Tribunal tracks its cases from the calendar year rather than the DPR reporting period of a fiscal year, the effect of these changes is not sharply apparent in the results reported in Section II. However, the effect of the new approach to case management will be evident in next year's DPR.

In addition to the pursuit of more efficient hearings, the Tribunal continued to promote and refine its alternative dispute resolution program. In November, I began exploring the use of dispute resolution models emanating from, among others, the superior courts in Alberta, as well as from other jurisdictions' labour and human rights regimes, to encourage parties to better understand the strengths and weaknesses of their positions (evaluative mediation), which has led to greater settlements. In the last two months of the 2009–2010 fiscal year, of the nine cases where I used evaluative mediation, seven cases were settled. I also offered innovative process mediation to assist parties to attempt to resolve issues of evidence and process in complex cases. Such efforts are being offered to focus parties on issues of disagreement in an effort to reduce the length and complexity of hearings. These new approaches to conflict resolution are also to expected pay significant dividends in the form of higher mediation success rates when the 2010 case data is compiled in December. As well, the backlog has been cleared.

Shirish P. Chotalia, Q.C.

Section I: Overview

Raison d'être

The Canadian Human Rights Tribunal is a quasi-judicial body that hears complaints of discrimination referred by the Canadian Human Rights Commission to determine whether the activities complained of violate the *Canadian Human Rights Act* (CHRA). The CHRA was passed in 1977 to protect individuals from discrimination and to promote equal opportunity in Canadian society. The CHRA makes it an offence for federally regulated employers or service providers to discriminate against any individual or group on 11 grounds:

- race;
- national or ethnic origin;
- colour;
- religion;
- age;
- sex (includes pay equity, pregnancy, childbirth and harassment, although harassment can apply to all grounds);
- marital status;
- family status;
- sexual orientation;
- disability (can be mental/physical and includes disfigurement and past, existing or perceived alcohol or drug dependence); or
- conviction for which a pardon has been granted.

The Tribunal also adjudicates cases brought under the *Employment Equity Act* and, pursuant to section 11 of the CHRA, rules on allegations of wage disparity between men and women doing work of equal value in the same establishment.

Responsibilities

In hearing complaints under the *Canadian Human Rights Act* (CHRA) and the *Employment Equity Act*, the Canadian Human Rights Tribunal considers matters concerning employment or the provision of goods, services, facilities or accommodation. The Tribunal's jurisdiction covers matters that come within the legislative authority of the Parliament of Canada, including those concerning federal government departments and agencies, as well as banks, airlines and other federally regulated employers and providers of goods, services, facilities and accommodation. The Tribunal holds public hearings to inquire into complaints of discrimination. Based on evidence and the law (often conflicting and complex), it determines whether discrimination has occurred. If it has, the Tribunal formulates a remedy and orders the respondent to compensate the complainant. The Tribunal may also order the respondent to adopt new policies or organizational behaviours intended to prevent future discrimination.

The majority of actions found discriminatory by the Tribunal are not done with malicious intent. Many conflicts arise from long-standing practices, legitimate concerns by employers, or conflicting interpretations of statutes and precedents. The role of the Tribunal is to understand the position taken by each of the parties and to establish fair and appropriate "rules" to resolve the dispute. The Tribunal may inquire only into complaints referred to it by the Canadian Human

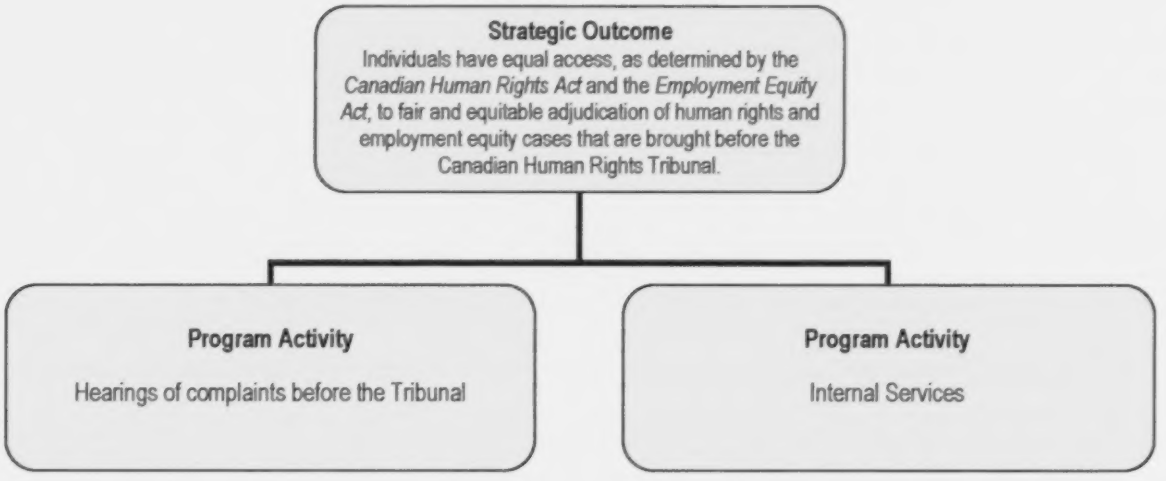
Rights Commission, usually after a full investigation by the Commission. The Commission resolves most cases without the Tribunal's intervention. Cases referred to the Tribunal generally involve complex legal issues, new human rights issues, unexplored areas of discrimination or multi-faceted evidentiary complaints that must be heard under oath, especially in cases with conflicting evidence that involve issues of credibility.

The Tribunal is not an advocate for the CHRA; that is the role of the Commission. The Tribunal has a statutory mandate to apply the Act based solely on the evidence presented and on current case law. If there is no evidence to support an allegation, then the Tribunal must dismiss the complaint.

The Tribunal reports to Parliament through the Minister of Justice.

Strategic Outcome and Program Activity Architecture

In light of its narrow mandate, the Tribunal aims to achieve a single strategic outcome, which it pursues by means of two program activities, one operational and one management.


Strategic Outcome
Individuals have equal access, as determined by the Canadian Human Rights Act and the Employment Equity Act, to fair and equitable adjudication of human rights and employment equity cases that are brought before the Canadian Human Rights Tribunal.
Program Activity
Hearings of complaints before the Tribunal
Program Activity
Internal Services

Summary of Performance

The following tables display the financial and human resources managed by the Tribunal in 2009–2010.

2009–2010 Financial Resources ($ millions)

Planned Spending	Total Authorities	Actual Spending
4.4	4.9	4.3

2009–2010 Human Resources (FTEs)

Planned	Actual	Difference
26	26	0

Strategic Outcome: Individuals have equal access, as determined by the *Canadian Human Rights Act* and the *Employment Equity Act*, to fair and equitable adjudication of human rights and employment equity cases that are brought before the Canadian Human Rights Tribunal.

Performance Indicator	Target	2009– 2010 Performance
Tribunal decisions/rulings	Rendering decisions within four months of the close of the hearing in 80% of cases	Not met. The Tribunal was unsuccessful in delivering its written decisions within the sought-after four-month timeline from the close of hearing. Unlike hearings before the courts, Tribunal hearings often involve parties who cannot afford professional legal representation. This means they represent themselves in dealing with complex facts, evidence and law. This tends to make the hearing, as well as the post-hearing analysis stage, last much longer than is typically the case for administrative tribunals whose parties are represented by counsel.

($ millions)

Program Activity	2008–2009 Actual Spending	2009–2010*				Alignment to Government of Canada Outcome
		Main Estimates	Planned Spending	Total Authorities	Actual Spending	
Hearing of complaints before the Tribunal	2.1	2.5	2.5	2.7	2.4	Social Affairs A diverse society that promotes linguistic duality and social inclusion.
Internal Services	1.8	1.9	1.9	2.2	1.9	
Total	3.9	4.4	4.4	4.9	4.3	

* Commencing in the 2009–2010 Estimates cycle, the resources for Internal Services are displayed separately, rather than being subsumed under the Tribunal's other program activity, as was done in previous Main Estimates. This has affected the comparability of spending and FTE information by program activity between fiscal years.

Contribution of Priorities to Strategic Outcome

The Tribunal has a single strategic outcome: Individuals have equal access, as determined by the *Canadian Human Rights Act* and the *Employment Equity Act*, to fair and equitable adjudication of human rights and employment equity cases that are brought before the Canadian Human Rights Tribunal.

Operational Priority	Type	Status	Linkage to Strategic Outcome
Continuous program improvement	Ongoing	Partially met The Tribunal's computer-assisted case management system (toolkit) adopted in 2005 has enabled the Tribunal to better manage its workload and expedite its complaint inquiry process. Given the ever-changing nature of information technology (IT), however, the Tribunal this year began investigating the need to upgrade its toolkit. It conducted a business process reengineering study that recommended replacing the current toolkit with a new system. That system would support enhanced collaboration among Tribunal members and Registry staff, and allow more efficient monitoring and reporting of progress on hearings and case dispositions, enabling the Tribunal to make better use of its available technology resources. The Tribunal also developed and published a new set of guidelines* for parties to a complaint, which sets out strict and detailed timelines for every phase of the inquiry and hearing process.	This priority makes the continued fair and equitable adjudication of human rights complaints a reality in Canada by ensuring that Tribunal decisions meet generally accepted standards of timeliness and quality.

* The guidelines can be found at chrt-tcdp.gc.ca/NS/about-apropos/trp-rpt-eng.asp.

Management Priority	Type	Status	Linkage to Strategic Outcome
Improved corporate management	Ongoing	Partially met This year the Tribunal: • completed and implemented a learning guideline initiated a process to develop a Tribunal-specific values and ethics statement; • began reviewing the Tribunal's human resources policy suite; and • revised and approved its Integrated Business and Human Resources Plan. The Tribunal strengthened its compliance with the government's Framework for Managing Information by implementing the government's Records, Documents and Information Management System for management of its corporate records. It also completed and approved an Information Management Plan and made progress on an Information Management Strategy. The Tribunal continued to progress toward greater compliance with the government's Management of IT Security Standard, implementing an IT security policy and a business continuity plan.	The Tribunal's smooth functioning, especially in an era of mass retirements of baby boomers, demands that the Registry adopt state-of-the-art human resources management practices, including succession planning. Moreover, the Tribunal relies on strong information management practices and up-to-date IT infrastructure to enable it to conduct high-quality inquiries and fair and equitable adjudications despite its unpredictable caseload and modest resources.

Risk Analysis

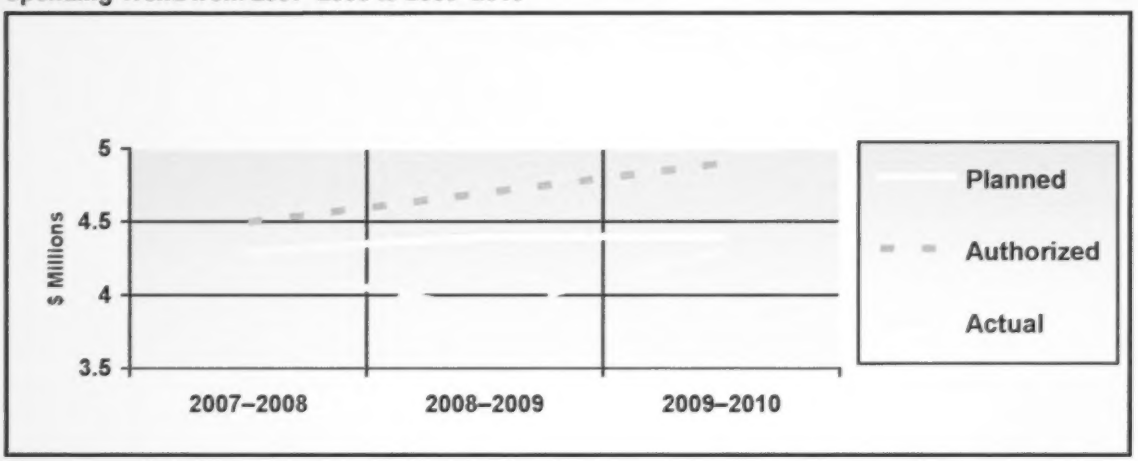
A key aspect of the Tribunal's operating environment is that the Tribunal has no control over the size of its case intake in any given year. The number of cases referred is entirely at the discretion of the Commission. Nor does the Tribunal have the luxury of choosing which cases to inquire into immediately (for example a balanced mix of straightforward and complex cases to optimize available resources) and which to postpone. Hearings before the Tribunal are becoming increasingly complex, with motions and objections ever more frequent. And hearings on the merits are longer and increasingly challenging. The Tribunal is also struggling to retain the expertise it needs to manage its workload.

At the same time, the Tribunal has significant obligations to comply with government-wide horizontal initiatives. For example, it is committed to strengthening its accountability framework and information management capacity, implementing the government's internal audit policy, and developing measures to enhance human resources management. The unpredictability of its

caseload, together with its all too predictable commitments to comply with resource-intensive horizontal initiatives, seriously challenges the Tribunal's efforts to expedite the hearings and decision writing processes that are its core business.

Expenditure Profile

Spending Trend from 2007–2008 to 2009–2010



Planned spending for 2009–2010 remained relatively constant at $4.4 million, while authorized spending increased from the previous year by $0.2 million. The difference in authorized spending is attributable to amounts received for salary expenditures relating to approved collective agreements and other salary expenses and to an operating budget carry-forward from 2008–2009.

Actual spending for 2009–2010 increased to near the planned spending amount. Some of the planned expenditures realized are salary expenses related to retirement and parental benefits paid, costs associated with the appointment of a new Chairperson and the completion of an IT Security audit. Other spending increases from 2008–2009 include fees paid to part-time Tribunal members and upgrades to the digital voice recording system.

Note that actual spending in the Expenditure Profile graph and in the Performance Summary table does not include $1.1 million per year for accommodation provided by Public Works and Government Services Canada and for government payments provided by Treasury Board to employee insurance plans.

The Tribunal does not participate in any initiatives for Canada's Economic Action Plan.

Voted and Statutory Items

($ millions)

Vote # or Statutory Item (S)	Truncated Vote or Statutory Wording	2007–2008 Actual Spending	2008–2009 Actual Spending	2009–2010 Main Estimates	2009–2010 Actual Spending
15	Program expenditures	3.8	3.6	4.0	3.9
(S)	Contributions to employee benefit plans	0.4	0.3	0.4	0.4
	Total	4.2	3.9	4.4	4.3

Section II: Analysis of Performance by Program Activity

Strategic Outcome

Individuals have equal access, as determined by the *Canadian Human Rights Act* and the *Employment Equity Act*, to fair and equitable adjudication of human rights and employment equity cases that are brought before the Canadian Human Rights Tribunal.

Program Activity 1: Hearing of Complaints before the Tribunal

The Tribunal receives complaints referred to it by the Canadian Human Rights Commission, initiates an inquiry into each complaint, and seeks to resolve the complaint. Resolution can be by means of a mediated settlement or by means of a hearing and a written decision that either dismisses the complaint or substantiates it and orders a remedy. Tribunal members also conduct hearings into applications from the Canadian Human Rights Commission and requests from employers to adjudicate on decisions and directions given by the Commission under the *Employment Equity Act*. The entire process, from the referral to the closure of a case, is encompassed in the program activity Hearing of Complaints before the Tribunal.

Program Activity 1: Hearing of Complaints before the Tribunal					
2009–2010 Financial Resources ($ millions)			2009–2010 Human Resources (FTEs)		
Planned Spending	Total Authorities	Actual Spending	Planned	Actual	Difference
2.5	2.7	2.4	13	13	0

Expected Results	Performance Indicators	Targets	Performance Status	Performance Summary
Access to an adjudication process that is efficient, equitable and fair to all who appear before the Tribunal	Timeliness of initiating inquiry process	Initiate inquiry within 10 days of referral of the complaint by the Canadian Human Rights Commission in 90% of cases	Not met Although cases are officially logged in on the date they are referred by the Commission, the inquiry can not be initiated until key documents are also received. These documents frequently	Of the 80 complaints referred to the Tribunal in 2009, inquiries were initiated within 10 days of referral 19% of the time.

			post-date referral by as much as a month.	
	Percentage of hearings commenced within timelines	Commence hearing within 6 months of receiving referral in 70% of cases	Met	Of the 17 cases that proceeded to hearings in 2009, 12 of them (70%) began hearings within 6 months of referral.
	Percentage of cases completed within timelines	Conclude inquiries within 12 months of referral in 70% of cases	Met	70% of cases closed in 2009 were concluded within 12 months of their referral to the Tribunal.
Clear and fair interpretation of the CHRA and the *Employment Equity Act* Meaningful legal precedents for the use of employers, service providers and Canadians	Number of judicial reviews (overturned vs. upheld)	Majority of decisions upheld or not judicially challenged	Met	Although a higher proportion of decisions than in previous years were referred for judicial review this year, the small number of cases (5 of 11) makes it inadvisable to assign significance at this time. The Tribunal remains satisfied that its decisions continue to meet the expected results. (See fuller discussion under Judicial Review.)

Tribunal 2009–2010 Decisions

The following summaries of Tribunal decisions from 2009–2010[1] illustrate the kinds of complaints brought before the Tribunal and how such cases affect all Canadians. Summaries of other Tribunal decisions rendered in calendar year 2009 can be found in the Tribunal's 2009 annual report.

[1] These cases are described in more detail in the 2009 and the 2010 annual reports and the full text of the decisions is also available.

Vilven and Kelly v. Air Canada, Air Canada Pilots Association et al.
2009 CHRT 24 (judicial review pending)

The complainants were airline pilots who challenged the provision of their collective agreement providing for mandatory retirement at age 60, alleging that the provision resulted in age discrimination. Their employer and the bargaining agent took the position that the mandatory retirement rule was justifiable under the CHRA since the complainants' employment had been terminated because they had reached the "normal age of retirement" for employees working in positions similar to their own. They also argued that mandatory retirement was justifiable under the CHRA on the ground that it constituted a *bona fide* occupational requirement (BFOR).

Since neither respondent established a BFOR in regard to the mandatory retirement rule and since the Tribunal found the CHRA's "normal age of retirement" provision to be unconstitutional, the Tribunal decided the complaint was substantiated and proceeded to hear evidence and submissions on remedy.

Results for Canadians

In Canada the demographic challenges posed by an aging population and workforce become increasingly relevant and demand more urgent attention with every passing year.

The *Vilven and Kelly* decision explores vital issues and long-held assumptions in Canadian society about aging and employment, including the economic organization of the workforce, the dignity interests of older workers, and the reconciliation of collective bargaining rights and equality rights.

In particular, this decision provides valuable guidance on the interpretation that can be given to two significant limiting provisions of the CHRA—the normal age of retirement justification and the BFOR justification.

Warman v. Lemire et al. **2009 CHRT 26 (judicial review pending)**

The complainant alleged that the respondent had communicated or caused to be communicated material over the Internet that was likely to expose individuals to hatred or contempt based on prohibited grounds of discrimination (religion, race, colour, national or ethnic origin, and sexual orientation). The respondent denied this allegation, and asserted that the provisions of the CHRA dealing with hate communication were unconstitutional as they violated his freedom of expression guaranteed under the Charter.

The Tribunal found that, except for one article targeting homosexuals and Blacks, the complainant's allegations were not supported by the evidence.

The Tribunal then ruled on the respondent's constitutional arguments, in particular, that the hate message provisions of the CHRA constituted an unjustifiable infringement of the respondent's freedom of expression as guaranteed by the Charter. In the Tribunal's view, the impugned CHRA provisions, including the monetary penalty sanction that could be imposed after a finding of hate message communication, constituted more than a minimal impairment of the respondent's freedom of expression. If Parliament wished to impose liability for hate

communication without requiring proof of intent, it could only do so in pursuit of the objectives of harm prevention and compensation. The current CHRA scheme, however, with its penalty provision, now also sought to punish moral blameworthiness. Moreover, the addition of the penalty provision, when considered together with the Tribunal's finding that the CHRA complaints process did not function in as conciliatory a manner as possible, led to the conclusion that the absence of an intent requirement rendered the hate message provisions constitutionally deficient. The Tribunal therefore refused to apply these provisions to the case, and did not issue a remedial order.

Results for Canadians

The Internet-generated revolution in mass communications continues to pose challenges for Canada's liberal democracy as Canadians debate how best to balance freedom of expression with protection of the vulnerable. In *Warman v. Lemire* the Tribunal's reflections on and analysis of the CHRA's hate message provisions contribute significantly to this vital public discourse.

Hughes v. Elections Canada **2010 CHRT 4**

The complainant, who has post-polio syndrome and uses a wheelchair or walker, claimed that he was denied an accessible polling location and adversely differentiated because of his disability when he went to vote at a church in downtown Toronto on two occasions within a seven-month time span. He alleged that the respondent had discriminated against him in the provision of services.

At the hearing, the respondent admitted that it had adversely differentiated the complainant in the provision of a service. The Tribunal found that additional facts in evidence gave rise to a finding of discrimination on the part of the respondent, including the following: the respondent failed to record and properly investigate the verbal and written complaints precipitated by the complainant's first polling day experience, and the respondent's written response to the accessibility issues raised by the complainant was tardy, inaccurate and dismissive in tone.

Having found the complaint to be substantiated, the Tribunal turned to the question of remedy. It awarded the complainant compensation for pain and suffering experienced as a result of the discrimination. The Tribunal then accepted the offer of the Canadian Human Rights Commission (CHRC) to monitor the implementation of the terms of the Tribunal's order. Some of the order's stipulations included requirements for Elections Canada to:

- formulate a consultation plan to involve persons with disabilities and disability groups in matters touched on by the Tribunal's order (e.g., the choice of polling locations, standards of accessibility, signage and training of personnel);
- stop situating polling stations in locations that do not provide barrier-free access;
- review its Accessible Facilities Guide, Accessibility Checklist and the accessibility sections of its manuals for various categories of electoral officers and workers;
- provide sufficient and appropriate signage at elections, so that voters with disabilities can easily find the best route to all accessible polling station entrances;
- review, revise and update its training materials concerning accessibility issues;

- implement a procedure for receiving, recording and processing verbal and written complaints about lack of accessibility at polling locations, and report publicly to Parliament about the number of complaints received for three general election cycles; and
- report to the Tribunal in at least three-month intervals about its progress in implementing the order.

Results for Canadians

In the words of the Tribunal in this case, "voting is one of the most sacred rights of citizenship and that includes the right to do so in an accessible context." The quote aptly illustrates the significance of this decision. In *Hughes* the Tribunal also elaborated on the body of principles governing discrimination in the provision of services, an area of the CHRA that had not been as fully explored as employment-related discrimination. In particular, in issuing its multi-faceted remedial order, the Tribunal had an opportunity to concretely articulate general principles about the contents of "future practices orders."

Roopnarine v. Bank of Montreal **2010 CHRT 5**

The complainant alleged that the respondent terminated her employment because of her disability, and that it used inaccurate performance appraisals and evaluations as a pretext to dismiss her when the real reason for her dismissal was the respondent's unwillingness to accommodate her wrist injury.

The Tribunal noted that at the time the complainant's employment was terminated she was suffering from a wrist injury, was on an accommodated leave for that injury, was receiving physiotherapy and was awaiting a specialist's report to have the accommodation period extended. She was experiencing wrist pain consistent with a repetitive strain injury.

On the evidence, however, the Tribunal found that the complainant's wrist injury was not a factor in the respondent's decision to terminate her employment.

The Tribunal also did not find that the complainant had been subjected to adverse differential treatment based on disability prior to her dismissal; the complainant's manager made every effort to help her improve her skills to facilitate future opportunities, but the complainant refused to accept criticism and direction, and in spite of training, failed to improve.

The respondent's medical accommodation process in regard to the wrist injury was consistent with its duty to accommodate the complainant and was carried out promptly and in good faith. The complainant herself had an obligation to provide relevant medical information necessary for the accommodation of her disability.

Other accommodation requests by the complainant were not made to the respondent in a timely fashion, or were unsupported by medical authority. Finally, the evidence did not support the allegation that performance concerns were only raised by the respondent after it learned of her wrist injury.

Results for Canadians

The *Roopnarine* decision highlights some important aspects of the law surrounding disability accommodation. First, it reminds Canadians that the CHRA does not displace all aspects of the employment contract. In particular, employers are not precluded from terminating employees with a disability for non-discriminatory reasons, such as substandard performance unrelated to the disability.

Second, the decision highlights the important role played in the accommodation process by the timely exchange of accurate, relevant information, and prompt follow-up action once the necessary information has been received.

Judicial Review

As the table below illustrates, less than a third of the Tribunal's 61 decisions of the past four years have been challenged, and less than 10 percent have been overturned. Although an exceptionally high proportion of Tribunal decisions were challenged (5 of 11) in 2009, the small sample size makes it difficult to ascribe statistical significance to this higher incidence of requests for judicial review. So far only one of the challenged decisions has been reviewed by the Federal Court, which upheld the Tribunal's findings. The Tribunal remains satisfied that, on the whole, its decisions continue to provide fair and equitable interpretations of the CHRA and to set meaningful legal precedents.

Judicial Reviews

	2006	2007	2008	2009	TOTAL
Cases referred	70	82	103	80	335
Decisions rendered	13	20	17	11	61
Upheld	0	5	0	1	6
Overturned	3	2	1	0	6
Judicial review withdrawn or struck for delay	1	0	2	0	3
Judicial review pending	0	0	1	4	5
Total challenges	**4**	**7**	**4**	**5**	**20**

Note: Case referral and judicial review statistics are kept on a calendar year basis only.

Program Activity 2: Internal Services

Given the Tribunal's modest size and straightforward mandate, the Tribunal functions as a cohesive whole, making it difficult to disentangle some organizational activities typically associated with internal services from the core operations of the organization. For example, the Tribunal Registry (which plans and arranges hearings, acts as liaison between the parties and Tribunal members, and manages the operating resources allocated to the Tribunal by Parliament) performs both operational and administrative functions. This is why the performance discussion on the operational priority in Section I was so focused on IT considerations and business process improvements. Similarly, because of the Tribunal's administrative justice mandate, Legal Services, which in other departments and agencies would be considered an internal service, is actually integral to the Tribunal's core business of adjudication. Somewhat more typical of an internal service provider is the Tribunal's IT Services section. This section is charged with ensuring that the Tribunal has the technology required to perform its duties efficiently and effectively. It also provides advice on the use of corporate systems and technology available internally and externally and is responsible for ensuring system compliance with government-wide technology policies, as well as information system integrity, security and continuity. Human resources services are provided by Public Works and Government Services Canada.

Program Activity 2: Internal Services					
2009–2010 Financial Resources ($ millions)			**2009–2010 Human Resources (FTEs)**		
Planned Spending	**Total Authorities**	**Actual Spending**	**Planned**	**Actual**	**Difference**
1.9	2.2	1.9	13	13	0

Expected Results	Performance Status*	Performance Summary
The Tribunal's human resources management policies and practices are integrated with the Tribunal's business planning and fully aligned with the government's public service renewal initiative by March 2010.	Partially met	This year, as planned, the Tribunal completed and implemented a learning guideline as per the Tribunal's initial framework , initiated a process to develop a values and ethics statement, began reviewing its human resources policy suite, and revised and approved its Integrated Business and Human Resources Plan.

Expected Results	Performance Status*	Performance Summary
The Tribunal has in place a strategy for the integration of its information and data reporting capacity by March 2010.	Partially met	Given the Tribunal's sizable and unpredictable caseload and its modest human resources, optimizing information management and IT infrastructure is vital to the smooth functioning of all internal services at the Tribunal. This year the Tribunal completed and approved an Information Management Plan and made progress on a more detailed three- to five-year Information Management Strategy. The Tribunal also responded to the recommendations of a 2009–2010 internal audit of its IT security with a plan to develop and implement a strategic IT plan, including directives on integrating technology management products, practices and policies.

* Because of the concrete and immediate nature of the expected results for this program activity, it was not necessary to develop performance indicators to assess whether these results were achieved.

Performance Analysis

The Tribunal continues to grapple with the ongoing challenge of expediting the disposition of complaints while ensuring high standards of fairness, fostering meaningful settlements and issuing well-reasoned decisions. Early in the fiscal year, the Tribunal re-examined its inquiry procedures and released a new guidance document targeting legal professionals and parties to complaints. The new Practice Note sets out detailed timelines intended to simplify and expedite every aspect of the inquiry and adjudication process. Although experience to date suggests that both the parties and the Tribunal are benefiting from the new guidance document, it is still early to confirm its efficacy. Another significant development this year was the launch of an initiative to re-engineer the Tribunal's case management system (toolkit). The Tribunal remains optimistic that the adoption of a new software program and revamped case management system next year will improve its capacity to monitor the pre-hearing phase of inquiries, helping to address its perennial caseload-related challenges.

Lessons Learned

Faced once again with a high volume of cases in 2009, and given the increasingly complex nature of complaints referred and the vigorous advocacy displayed by the parties, the Tribunal believes that it will continue to have difficulty achieving some of its time-related service standards, particularly the four-month deadline for decision writing. Nevertheless, such targets are of great help in motivating the Tribunal to seek administrative and process efficiencies wherever they may be found. The Tribunal is also satisfied that its active case management techniques, which help the parties determine with greater precision which issues must be decided at hearing, materially expedite the inquiry and hearing process without exerting undue pressure on the parties. The Tribunal will continue to ferret out improvements that facilitate speedier disposition of cases without compromising the fairness, equity and quality of settlements and decisions.

In pursuit of broader government-wide outcomes, the Tribunal will continue to actively seek opportunities for sharing and collaboration through new technologies and interdepartmental partnerships.

Benefits for Canadians

As a key mechanism of human rights protection in Canada, the Tribunal gives effect to the Canadian ideals of pluralism, equity, diversity and social inclusion. It provides a forum where human rights complaints can be scrutinized and resolved and provides definitive interpretations on important issues of discrimination. The proximate result of the Tribunal's program is that complainants can air their grievances and achieve closure in a respectful, impartial forum. In the longer term, Tribunal decisions create meaningful legal precedents for use by employers, service providers and Canadians at large.

During 2009–2010, the Tribunal issued 11 written decisions determining whether the CHRA was infringed in a particular instance (subject to rights of judicial review before the Federal Court). Although these decisions have a direct and immediate impact on the parties involved, they also have more far-reaching repercussions, giving concrete and tangible meaning to an abstract set of legal norms. Although the CHRA prohibits discriminatory practices and exempts certain discriminatory practices from remedy, it does not provide examples. Nor does the Act define the term discrimination. Tribunal decisions are therefore the primary vehicle through which Canadians see the impact of the legislation and learn the extent of their rights and obligations under the Act.

Section III: Supplementary Information

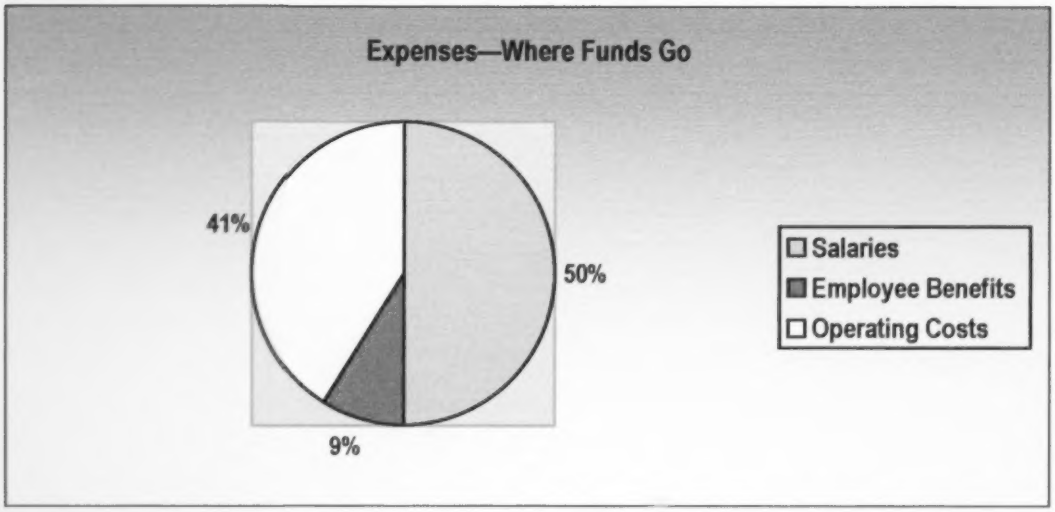
Financial Highlights

($)

Condensed Statement of Financial Position At end of Fiscal Year (March 31, 2010)	% Change	2008–2009	2009–2010
ASSETS	(33)	274,384	183,478
Total Assets	(33)	274,384	183,478
TOTAL	(33)	274,384	183,478
LIABILITIES	(21)	1,022,758	813,108
Total Liabilities	(21)	1,022,758	813,108
EQUITY	(16)	(748,374)	(629,630)
Total Equity	(16)	(748,374)	(629,630)
TOTAL	(33)	274,384	183,478

($)

Condensed Statement of Operations At end of Fiscal Year (March 31, 2010)	% Change	2008–2009	2009–2010
EXPENSES	7	5,058,482	5,410,905
Total Expenses	7	5,058,482	5,410,905
REVENUES	(92)	696	55
Total Revenues	(92)	696	55
NET COST OF OPERATIONS	7	5,057,786	5,410,850



These percentages are based on actual 2009–2010 expenditures of $4.3 million and do not reflect costs for services provided without charge or other expenses such as amortization. Major operating costs include travel to hearings across Canada, rental of hearing room facilities and equipment, Tribunal member fees, professional services contracts, and translation costs.

Financial Statements

The Tribunal's financial statements can be found on its website.

List of Supplementary Information Tables

The following electronic supplementary information tables can be found on the Treasury Board of Canada Secretariat's website:

- Response to Parliamentary Committees and External Audits
- Internal Audits and Evaluations

Contacts for Further Information and Website

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E-mail: registrar@chrt-tcdp.gc.ca

Website: chrt-tcdp.gc.ca

Legislation and Associated Regulations Administered

The Minister of Justice is responsible to Parliament for the *Canadian Human Rights Act* (R.S. 1985, c. H-6, as amended).

The Minister of Labour is responsible to Parliament for the *Employment Equity Act* (S.C. 1995, c. 44, as amended).